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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/507,112

09/10/2004

Liwen He

36-1842

4135

23117 7590 05/21/2008
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EXAMINER

FERNANDEZ RIVAS, OMAR F

ART UNIT

PAPER NUMBER

2129

MAIL DATE

DELIVERY MODE

05/21/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	<p>Application No. 10/507,112</p>	<p>Applicant(s) HE, LIWEN</p>	
	<p>Examiner OMAR F. FERNANDEZ RIVAS</p>	<p>Art Unit 2129</p>	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED _____ FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☒ Other: See Continuation Sheet.

/David R Vincent/
Supervisory Patent Examiner, Art Unit 2129

Continuation of 11. does NOT place the application in condition for allowance because: the Applicant's arguments regarding the rejections made in the Final Office Action of 2/1/2008 have been fully considered but are not persuasive.

Continuation of 13. Other: The Applicant generally argues that the prior art reference Corne does not teach the "groups" claimed. In his argument, the applicant states that groups are defined in the preamble of the claims and that the claim language defines that there are as many groups as there are resources. The Examiner respectfully disagrees. There is nothing in the claim that suggests that there are as many groups as there are resources. First, as claimed, note that the parameters W , n , and m are different in lines 2 and 4 of claim 1 since in line 4 these parameters are in italic mode. If these terms are supposed to have the same value, then they should be written in the same format. It is common practice in mathematics and in computer programming that if a value is defined in a particular manner, then each time that value is referenced it must be referenced using the definition given to that term. Also note that the claim recites "dividing said set W of n tasks values into m respectively groups associated with said resources" If m is the same as the number of resources, what happens if there are more tasks than there are resources? What happens if there are more resources than there are tasks? Since the number of groups is tied to the number of resources, maybe there will not be enough groups to divide the tasks, so all the tasks may not be allocated or there may be more groups than are needed to divide the tasks, so some groups may not be relevant.

Also from the specification it can be seen that a group is an assignment of a task to a resource (see pgs. 3-4 of the specification of the instant application). In page 24, line 12 to page 25, line 21, of Corne, there is an example of chromosomes representing server/client configurations. Each gene in a chromosome represents a server (a resource). A client is assigned to use (a task) each of the servers. This assignment of clients to servers is considered equivalent to the examples provided in pages 3-4 of the specification of the instant application and clearly there will be as many assignments (groups) as there are resources (servers).